Remarks/Arguments

The Office Action mailed September 4, 2008 has been reviewed and carefully considered.

Claims 1, 3, 6, 7, 9, 10, 12 and 15 have been canceled without prejudice. Claims 2, 4, 5, 8, 11, 13 and 14 have been amended. New Independent claim 16 has been added Claims 2, 4, 5, 8, 11, 13, 14 and 16 are now pending in this application.

Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

New independent claim 16 is presented herein. This claim embodies the features that the first and second materials are aerated, cementitious materials with different strength characteristics. Further, the sleeve which is made from a ductile metal is filled with the two materials in distinct proportions. Moreover one aerated material overlies the other aerated material. Thus claim 16 is a selective combination of cancelled claims 1, 3, 6, 7, 9 and 10. Claims 2, 4, 5, 8, 11, 13 and 14 have been amended to depend from new independent claim 16, but otherwise remain unaltered.

Claim Rejections

Claims 1-5, 12-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Staley (U.S. 1,895,053). Staley discloses a system in which sand held in a lower tube A is compressed, upon closure of a hanging wall and foot wall, by a tube B which is telescopically engaged with the tube A. The sand is allowed to escape through an aperture j to, *inter alia*, allow the support to be recovered. Staley clearly does not disclose, nor remotely suggest at least "a first aerated cementitious material with a first strength characteristic…", "a second aerated cementitious material with a second strength characteristic…", and/or "the first interior portion having a length, in an axial direction of the sleeve, which is greater than the length of the remainder of the sleeve interior in the axial direction of the sleeve and wherein, in use, one aerated cementitious material overlies the other aerated cementitious material." Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-5, 12-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Nellen et al. (U.S. 881,609). Nellen et al (US881609) describes a system which is similar to that in Staley in that there is a telescopic interaction between an upper support member *d* and a lower support member *b*. The inner support member (*d*) gradually compresses filler material *f* and this gradual movement helps to prevent catastrophic failure of the prop. Thus, the member *d* is used as a ram to compress the material in the lower member. No particular importance is disclosed or suggested in the specification as to the nature of the material in the upper component. Nellen, like Staley, clearly does not disclose, nor remotely suggest at least "a first aerated cementitious material with a first strength characteristic…", "a second aerated cementitious material with a second strength characteristic…", and/or "the first interior portion having a length, in an axial direction of the sleeve, which is greater than the length of the remainder of the sleeve interior in the axial direction of the sleeve and wherein, in use, one aerated cementitious material overlies the other aerated cementitious material." Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-15 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hall (U.S. 6,558,085). The patent to Hall (US6558085) discloses a mine support which has an outer container, a number of tubes inside the container, the tubes being divided into axial compartments running the length of each tube, wherein the compartments are filled with a first or a second load-bearing material.

Initially, applicant points out that Hall fails to disclose or suggest at least the above-cited features of independent claim 16. Particularly, Hall fails to disclose or suggest at least "a first aerated cementitious material with a first strength characteristic…", "a second aerated cementitious material with a second strength characteristic…", and/or "the first interior portion having a length, in an axial direction of the sleeve, which is greater than the length of the remainder of the sleeve interior in the axial direction of the sleeve and wherein, in use, one aerated cementitious material overlies the other aerated cementitious material."

In Hall, the outer container is preferably made from a flexible material e.g. a suitable plastics material. The tubes are designed to provide a path for filtering mine water from a first end to a second end of the tube. It is contemplated that a second material included in the support may be a filter material such as lime or limestone powder, rocks or blocks.

It is evident that strength, predictability and yielding characteristics were not primary considerations in the support disclosed in Hall. The support cannot be used to provide primary support in a situation in which predictable yielding and a high load-bearing capacity are essential.

In Hall the only example mentioned in which the container is not made from a flexible material is a cardboard box. Even if a cardboard box is regarded as being rigid, a box of this kind cannot be equated to a tubular metallic sleeve (i.e., tubular sleeve made from ductile material). Note that in Hall the various compartments can be arranged in rows and columns. One or more of the compartments are filled with a first load-bearing material while the other compartments are filled with a second material having no load-bearing capability, thus clearly teachings that no one compartment includes two separate filling materials with different strength characteristics. Furthermore, the so-called tubes in Hall extend, lengthwise, in a horizontal direction. The mine support of the present invention has only one tubular sleeve which extends generally vertically. In view of the foregoing, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 6-11 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Staley.

Claims 6-11 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nellen et al.

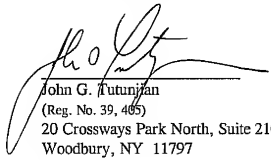
Claims 6, 7, 9 and 15 have been canceled by this response. Notwithstanding the cancellation, the remaining claims, 8 and 11 depend from new claim 16, and for at least the reasons cited above, are clearly patentably distinguished from Staley and/or Nellen et al. Reconsideration is respectfully requested.

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Office Action of September 4, 2008 be withdrawn, that pending claims 2, 4, 5, 8, 11, 13, 14 and 16 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant' s representatives Deposit Account No. 50-1433.

Respectfully submitted,

NICO ERASMUS et al.



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